

## **Rule X and the Committee on Science**

The Honorable Bart Gordon (D-TN),  
Ranking Minority Member,  
Committee on Science

Testimony before the Technology Subcommittee of the Committee on Rules  
June 16, 2003

Thank you for inviting me to testify regarding changes to Rule X. The central organizational question facing the House as regards Committees is the future of the Select Committee on Homeland Security. The growing pains of the Department have been echoed to a lesser degree by some of the experiences of the Select Committee. That is understandable. Growing a Committee from scratch is an appreciably difficult task. I think that Chairman Cox and Ranking Member Turner have done an excellent job at their core task of keeping track of the progress the new Department has made in establishing itself and carrying out the terms of the law creating the Department. All of the Members and staff of the Select Committee are to be congratulated.

Now we begin to wrestle with the tough question of how we go forward as an institution. It seems to me that the core rationale for the creation of the Select Committee—oversight of the messy and tumultuous process of bringing a new department into being—is eroding by the day. Beyond that core rationale, there seems to be one central argument we hear for keeping the Select Committee: it will enhance the efficiency of the workings of the House. I believe that claim is based on a faulty understanding of the House, its Committee structure and operations. In fact, I think the effect of maintaining the Select Committee would have a generally deleterious effect on the House for reasons that I will elaborate upon.

My testimony is informed by having been a Member of Congress for twenty years, and from sitting on two Committees that share jurisdiction with the Homeland Security Committee. I can say from experience that the Homeland Security-related jurisdiction of both the Commerce Committee and the Science Committee, where I have the honor of being the Ranking Minority Member, can be more than adequately covered by those Standing Committees.

In fact, both Committees have been active in tending to their oversight responsibilities related to Homeland Security. I believe they would be even more active in the future were the Select Committee not in place.

The jurisdiction of the Science Committee involves the work of the Under Secretary for Research and Development. The creation of that office, and the entire R&D title of the organic act, was the product of the Committee on Science. Those provisions were not in the original proposal that came from the White House, but were added

by my Committee under the leadership of Chairman Boehlert. Mr. Armey and Ms. Pelosi both endorsed retaining those elements in the final bill. It is hard to imagine a more fundamental argument for jurisdiction, or competence to cover it, than the fact that we created the organic language based on our own Committee's expertise in the area.

The core logic for creating the Select Committee was the need for specific, on-going attention to the Executive as the new Department was brought together. That process is well underway now so the logic for the Select Committee begins to slip away. The standing Committees are more than capable of handling, as they have continued to oversee, the activities of this newest established Department.

But one also hears that even with the Department becoming established, the need for the Select Committee continues. The main claim is that the Select Committee will enhance the efficiency of the House. This is a curious claim. There is only one condition I can envision under which maintaining the Select Committee might enhance our efficiency—that condition being that all other standing Committees be stripped of their legislative and oversight jurisdiction over Homeland Security. I will return to why such a step would be a folly, but will first address what inefficiencies attach to keeping the Select Committee without stripping all other Committees of their jurisdiction.

The first flavor of an efficiency argument is that having the Select Committee will enhance the House's ability to handle authorizing legislation. This is an ill-considered argument. Simply designating a lead Committee from among the standing Committees is a perfectly reasonable solution. That is the solution the Senate settled upon. The Senate's reaction to the creation of the Department was to designate the Government Affairs Committee as the lead for handling legislation related to the Department, but standing Committees retained their discrete expertise and responsibilities. Any legislation coming out of the House that hopes to survive the Senate process will have to take that into account.

Further, the underlying premise of those who worry about the need for a lead Committee is that we will move reauthorizations for the entire Department all in one move. The huge, multi-function, multi-Committee bill that created the agency is unlikely to be repeated many times in future authorizations for a variety of reasons, not least of which will be the need to give somewhat more frequent legal guidance to this emerging agency and the difficulty of negotiating such a huge package either through the House Committee process or, just as importantly, the Senate Committees of jurisdiction.

My own suspicion is that the authorizations we move will be more along functional or sub-agency lines. The current standing Committee's with their legislative jurisdictions will be more than adequate for handling such legislation. I can imagine

an R&D authorization that could move as a stand-alone bill; or a customs piece or an immigration service piece; or a coast guard authorization. Such targeted authorizations seem a far more reasonable expectation for future legislation than an Omnibus authorization.

If we do need to do a more sweeping authorization, the Speaker has plenty of tools to deal with the current overlapping jurisdictions. In such an event, it would be easy enough to adopt the Senate model and designate one Committee as the lead and let other Committees get referrals as their jurisdiction is engaged. This is how we handle all major pieces of authorization. Frankly, absent stripping all the Standing Committees of their legislative responsibilities for the functions that have been rolled into the new Department, this is what would happen if the Select Committee was made permanent and given legislative authority. Such a step would add one more Committee to the mix for referrals—the very opposite of the stated goal of achieving efficiencies.

Another argument for the need to have a Select Committee rests on the claim that such a Committee will streamline the oversight process on the Hill. This is usually attached to some claim that the Department has to answer to dozens upon dozens of Committees and Subcommittees of the House and Senate. Again, unless current standing Committees are stripped of their oversight jurisdiction, it baffles me how adding a Committee and its requisite Subcommittees would do anything but inflate the number of Committees with jurisdiction. This would be a counterintuitive outcome to the claim that the Select Committee represents an efficiency enhancement.

Further, the notion that an agency answers to multiple Committees as an unnecessary burden on both the Executive and Congress always confuses me. The Science Committee in the House shares jurisdiction with at least 8 other House Committees on Energy Department issues. Other Committees, such as International Relations or the Permanent Select Committee on Intelligence may also have reason to take testimony from the Department of Energy. There is a similar array of Committees in the Senate with some claim on the Department. Yet in his over three years in office, Secretary Abraham has only come to the Hill 27 times since his confirmation hearing. I can only recall the Secretary appearing before the Science Committee on one occasion, and on that occasion he was testifying in support of the President's energy initiative. It doesn't seem to me as if these multiple, overlapping jurisdictions are creating an unnecessary burden on the leadership of the Department of Energy, nor do I expect it would for the Department of Homeland Security.

Let me return to the one method by which retaining the Select Committee could lead to a streamlining of work for the House, that is through a complete re-writing of Rule X to center all legislative and oversight responsibility in the hands of that

one Committee. I don't believe anyone is advocating this, and the problems with such a step are probably manifest to all. However, I seriously believe that is the only way to gain any "efficiency".

If we strip the standing Committees of their legislative and oversight responsibilities efficiency will be purchased at the price of sacrificing our existing expertise. That expertise resides in the Standing Committees. The Department was not made of whole cloth. It is instead largely a bundle of pre-existing agencies and programs brought together because they broadly share in the mission of protecting our borders. The Committees of the House have generally overseen those programs from Administration to Administration stretching back over long years. Expertise on the programs at the Department of Homeland Security resides today in the same Committees that helped in the creation of that Department, and it would be foolhardy to diminish their role in the future work of the Department.

The whole philosophy of organizing the House into Committees of jurisdiction rests upon a belief that the activities of the Executive, and the challenges to our nation, are so diverse that we must develop very specific expertise to be an effective partner and watchdog of the Executive. Members serve on just a few Committees in their tenure in the House, no matter how long, and the professional staffs of those Committees largely stay on with each change in Chairman or Ranking Member because the institutional knowledge that resides in the staff is indispensable to the House in carrying out our Constitutional functions. To strip standing Committees of their jurisdiction in pursuit of some chimera of efficiency would undercut the source of strength that resides in the Committee structure.

There is another, more philosophical objection to the pursuit of efficiency by the House. In the debate surrounding the proposed Constitution, the Federalists clearly viewed efficiency, energy, action as an attribute to be attached to the Executive. However, the legislature was to be a deliberative body designed to examine, challenge, consider.

In *Federalist #70*, Alexander Hamilton directly addresses these differing natures. As to the legislature, he wrote, "(P)romptitude of decision is oftener an evil than a benefit. The differences of opinion, and the jarring of parties in that department of the government, though they may sometimes obstruct salutary plans, yet often promote deliberation and circumspection, and serve to check excesses in the majority (The Federalist Papers, edited by Clinton Rossiter, p. 427)."

It is against the nature of the House, against the intent for how we should conduct business, that we pursue "efficiency" as an over-riding goal in how we organize our business. I would argue that clear lines of legislative jurisdiction for the Standing Committees, and clear guidance from the Speaker, will be more than adequate efficiency when it comes to moving legislation for the various agencies and

programs at the Department of Homeland Security. When it comes to oversight, I think a little jurisdictional obscurity is a good thing to create a sense of competition among the Committees in examining the workings of the Department, challenging the claims that come up to us and in asking hard questions. From an institutional and Constitutional perspective, more oversight is better than less oversight, and you purchase that through the "inefficiency" of multiple Committees having a stake in the Department's operation.

This last observation opens the door to the possibility that a Select Committee for Homeland Security limited to oversight alone might be an enhancement of the powers of the House. After all, it would add one more Committee into the mix that could watch the Executive in this very important area. I truly believe that the current array of Standing Committees is more than adequate to create an environment for aggressive oversight if Congress is of a mind to engage in that duty. If Congress is not interested in carrying out that function, no number of Committees, no matter how large, will be sufficient to spur the work forward.

Let me close by briefly turning to other Rule X issues that may impact the Committee on Science. I am aware that my Chairman, Mr. Boehlert, has submitted testimony that includes language regarding some expansion of the Committee's jurisdiction. I have not had time to study his proposal. I do think that, in general, it would make sense to consolidate science legislative and jurisdiction in the Science Committee. The Committee, most especially in its staff, has a unique capacity to deal with the technical issues that attend research and development programs.

I have also observed some confusion regarding jurisdiction among our Committee and other Committees in the last Congress. As science progresses, as new technologies emerge, it can be confusing to those without an understanding of these fields to comprehend where Committee jurisdictions begin and end. Trained in law myself, I confess I sometimes find these questions difficult to sort out. If the Chairman's proposal helps draw clearer lines in this regard, that would be a good thing. However, I would need to review the Chairman's proposals to understand, case-by-case, what is being proposed and have not had the opportunity to do so.

Thank you for your consideration and for calling this timely hearing.